

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-110153
	:	TRIAL NO. B-1008018
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
TIMOTHY CAUSEY,	:	
	:	
Defendant-Appellant.	:	
	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

Following a bench trial, defendant-appellant Timothy Causey was convicted of assault on a police officer in violation of R.C. 2903.13(A). The trial court imposed a one-year prison term. Causey now appeals, bringing forth five assignments of error. Finding no merit in his assignments, we affirm the trial court's judgment.

We consider Causey's first, second, and third assignments of error together. In those assignments, Causey challenges the sufficiency and weight of the evidence underlying his conviction, and he asserts that the trial court erred when it overruled his Crim.R. 29 motion for an acquittal. A sufficiency claim and the denial of a Crim.R. 29 motion for an acquittal are considered under the same standard of review. *State v. Gorrasi*, 1st Dist. No. C-090292, 2010-Ohio-2875, ¶ 11. When considering a sufficiency claim, we must determine, after viewing the evidence in the

light most favorable to the state, whether a rational trier of fact could have found the elements of the crime beyond a reasonable doubt. *State v. Thompkins*, 78 Ohio St.3d 380, 386, 1997-Ohio-52, 678 N.E.2d 541. Viewing the evidence in the light most favorable to the state in this case, a rational trier of fact could have found the elements of assault beyond a reasonable doubt. Furthermore, we cannot say that the trial court clearly lost its way and created a manifest miscarriage of justice in finding the defendant guilty; therefore, we determine that Causey's conviction was not against the manifest weight of the evidence. *Id.* at 387. The first, second, and third assignments of error are overruled.

In his fourth assignment of error, Causey argues that he was denied effective assistance of counsel. Specifically, he contends that counsel was deficient in failing to submit a request for discovery. But the decision whether to submit a request for discovery is "presumed to be a trial tactic which does not constitute ineffective assistance of counsel." *State v. Northern*, 8th Dist. No. 35849 (December 26, 2001). However, even if we were to hold that Causey's counsel was deficient in failing to submit a request for discovery, Causey has not demonstrated how he suffered any prejudice from this. *Strickland v. Washington*, 466 U.S. 668, 686, 104 S.Ct. 2052, 80 L. Ed.2d 674 (1984); *State v. Bradley*, 42 Ohio St.3d 136, 538 N.E.2d 373 (1989), paragraphs two and three of the syllabus. Accordingly, the fourth assignment of error is overruled.

In his final assignment of error, Causey contends that the trial court erred in imposing a one-year prison term. We presume that the trial court gave proper consideration to the applicable sentencing statutes, and the record does not indicate that the trial court's decision was unreasonable, arbitrary, or unconscionable. *State*

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v. Kalish, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124, ¶ 18-19. Therefore, we overrule Causey's fifth assignment of error.

The judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

DINKELACKER, P.J., HILDEBRANDT and HENDON, JJ.

To the clerk:

Enter upon the journal of the court on February 10, 2012
per order of the court _____.
Presiding Judge